IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

MONDAY, THE 22ND OCTOBER 2007 / 30TH ASWINA 1929

Crl.Rev.Pet.No. 3774 of 2007()

AGAINST THE ORDER DATED 09/08/2007 IN CRMP 4964 2007 IN CC.205/2002 of CHIEF JUDICIAL MAGISTRATE COURT, THRISSUR

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REVN. PETITIONER: ACCUSED:

P.J. KUNJAPPAN,
PROPRIETOR, PALLIPARAMBIL HOUSE, MUNDANVELY,
COCHIN-50, M/S. BAIJU AUTOMBILES, KAZHUMUTTU,
COCHIN-682 005.

BY ADV. SRI.A.JAYASANKAR
SMT.A.K.PREETHA

RESPONDENTS: STATE & COMPLAINANT:

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1. STATE OF KERALA,
REP. BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

2. E.S.I. CORPORATION,
REPRESENTED BY THE INSPECTOR,
ESI CORPORATION, THRISSUR.

BY PUBLIC PROSECUTOR SRI. K.S. SIVAKUMAR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 22/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

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Crl.R.P. No. 3774 of 2007

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Dated: 22-10-2007

ORDER

The revision petitioner is the accused in C.C. 205 of 2002 on the file of the Chief Judl. Magistrate, Thrissur. The said C.C. case arose out of a private complaint filed by the Inspector, E.S.I. Corporation, Thrissur, seeking to prosecute the petitioner for offences punishable under Sections 85 (a) and (g) of the E.S. I. Act.

2. The case of the prosecution is that the petitioner who is the proprietor of M/s. Baiju Automobiles failed to pay E.S. I. contribution amounting to Rs. 16,800/- for the period from 4/1997 to 10/2001 and also failed to submit E.S.I. returns for the period ending on 30-09-2000, 31-3-2001 and 30-09-2001. As per Crl.M.P. 4964 of 2007 the petitioner sought a stay of the trial of the case on the ground that the question as to whether the petitioner is covered under the E.S.I. Act is pending in I.C. 58 of 2004 before the E.S.I Court, Alappuzha. It is the contention of the petitioner that he has not engaged more than 10 workers in his establishment which is a condition precedent for the establishment being covered under the Act. The court below was not inclined to stay the trial and as per the impugned order dated 9-8-2007, the Chief Judicial Magistrate dismissed the said petition. Hence, this revision.

3. Even according to the revision petitioner I.C. 58 of 2004 has been pending before the E.S.I. Court, Alappuzha from 2004 onwards. The present complaint was filed in the year 2002 and it has not reached the stage of trial even after five years. The complaint before

the criminal court cannot pend endlessly. If as a matter of fact, the petitioner's establishment was not covered under the Act then he should have expedited the proceedings in I.C. 58 of 2004. The pendency of of the said I.C. cannot protract the trial of C.C. 205 of 2002 before the Chief Judl. Magistrate, Thrissur. If ultimately, the case I.C. 58 of 2004 is decided in favour of the petitioner, he can take advantage of the same at the appropriate stage . I see no ground to interfere with the discretion validly exercised by the trial court.

This Revision is accordingly dismissed.

V. RAMKUMAR,
(JUDGE)

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